In the outstanding Office Action, claims 1, 8-14, 16-26, 28-30, and 32-34 of the present

application were rejected under the judicially created doctrine of obviousness-type double patenting

("OTDP") with respect to claims 1-12 in U.S. Pat. No. 6,193,388 ("'388"). Examiner stated that:

> A timely filed terminal disclaimer in compliance with 37 CFR
> 1.321(c) may be used to overcome an actual or provisional rejection
> based on a nonstatutory double patenting ground provided the
> conflicting application or patent is shown to be commonly owned with
> this application. See 37 CFR 1.130(b).

Office Action 12/15/04, pg. 2 ¶ 1. Therefore, in response to the double patenting rejection, and

without admitting the propriety of the rejection, the assignee, MAG INSTRUMENT, INC., is filing

herewith a terminal disclaimer over U.S. Pat. No. 6,193,388 to overcome the OTDP rejection of

claims 1, 8-14, 16-24, 30, 32 -34. Said terminal disclaimer should overcome Examiner's basis for

the rejection of these claims.

The outstanding Office Action also objected to claims 2-7, 15, 24, 27, and 31 of the present

application. The objection was based on the fact that these claims depended from those claims

rejected for OTDP. Applicant believes that, with the enclosed terminal disclaimer and traversing

argument of those rejected claims, the objection to these claims becomes moot.

Applicant does not believe that a petition fee or extension fee is owed in connection with this

petition. If Applicant is incorrect in this belief, however, Applicant requests that any petition fee,

extension fee, or any other fee due with this petition be charged to Deposit Account No. **50-2468**.

In view of the foregoing, reconsideration and allowance of this application are earnestly

solicited.

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Respectfully submitted,

JONES DAY

Dated: June 14, 2005   By: _____

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